IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 10463 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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KISHOR @ HAKO BHALABHAI PARMAR - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR MP SHAH for Applicant(s) : 1,MS. KRUTI M SHAH for Applicant(s) : 1,
MR M.R.MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 12/09/2007

ORAL JUDGMENT

1. ***Rule***. Mr.M.R.Mengdey, learned APP waives service of rule on behalf of the respondent No.1-

State. With the consent of the learned Advocates appearing on behalf of the respective parties, the matter is taken up for final hearing today.

2. By way of this application under Section 482 of the Criminal Procedure Code, the petitioner – original accused has prayed for an appropriate order quashing and setting aside the FIR being CR No.II-3220/2007 registered at Jetpur City Police Station, Jetpur, District Rajkot, dated 25.08.2007 for the offence punishable under Section 279 of the Indian Penal Code. Alternatively the petitioner has also further prayed to direct to transfer the investigation of said FIR to any higher independent investigating agency.

3. At the outset, Ms.Shah, learned Advocate appearing on behalf of the petitioner presses the relief to transfer the investigation of the aforesaid FIR to any higher independent investigating agency and at this stage, Ms.Shah, learned Advocate, does not press the prayer for quashing and setting aside the aforesaid FIR.

4. Mr.M.R.Mengdey, learned Additional Public Prosecutor has submitted that looking to the averments and allegations in the complaint an appropriate order be passed.

5. Considering the averments and allegations in the petition and other surrounding circumstances, without further commending upon anything with respect to the impugned complaint it appears to the Court that it will be appropriate that impugned complaint be not investigated by any Police Officer of Jetpur City Police Station, Jetpur. Learned Advocates appearing on behalf of the respective parties do not press for detailed reasoned order for transfer of investigation.

6. Under the circumstances, this Court is not passing any further reasoned order. However, suffice it to say that looking to the averments and allegations in the petition and other surrounding circumstances, this is a fit case to transfer the investigation to any other independent investigating agency. Justice is not be done but is also seen to

have been done. Considering the apprehension on the part of the petitioner – original accused this Court is of the firm opinion to transfer the investigation of impugned FIR.

7. Under the circumstances, investigation of FIR being CR. No.II – 3220/2007 registered at Jetpur City Police Station is hereby transferred to Dy.S.P., Jetpur and consequently, Dy.S.P., Jetpur is directed to investigate said offences and complaint being C.R.No.II – 3220/2007 registered at Jetpur City Police Station in accordance with law and on its own merits. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R.Shah, J.]

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